

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

ALLSTATE VEHICLE & PROPERTY
INS CO., as subrogee of Theresa Smith,
2775 Sanders Road
Northbrook, IL 60062

Plaintiff,

v.

AMERICAN ELECTRIC POWER
COMPANY, INC.
c/o Registered Agent – C T Corporation
System
4400 Easton Commons Way, Suite 125
Columbus, OH 43219

Defendant.

CASE NO:

JUDGE:

JURY DEMAND ENDORSED HEREON

COMPLAINT AT LAW

NOW COMES the Plaintiff, ALLSTATE VEHICLE & PROPERTY INS CO. (hereinafter “ALLSTATE”) as subrogee of Theresa Smith (hereinafter, “Smith”), by and through its attorneys, and complain of Defendant, AMERICAN ELECTRIC POWER COMPANY, INC. (hereinafter “AEP”), and states as follows:

GENERAL ALLEGATIONS-THE PARTIES

1. At all times mentioned herein, Plaintiff ALLSTATE was an insurance company duly licensed to do business in the State of Ohio and has maintained claims offices throughout the State of Ohio.

2. At all times mentioned herein, Theresa Smith resided at, and was the owner of, a residence located at 3210 Middlebranch Ave NE, Canton, OH 44705 (hereinafter the “Smith Residence”).

3. At all times mentioned herein, Defendant AEP was an Ohio utility company located at 1 Riverside Plaza, Columbus, OH 43215, and is licensed to do business as a utility company generating, transmitting, and distributing electric energy.

4. At all times relevant, AEP generates, transmits, distributes, and sells electric utility services to customers throughout the state of Ohio.

JURISDICTIONAL STATEMENT

5. Jurisdiction is proper in the Northern District of Ohio pursuant to 28 U.S.C. § 1332 as the Plaintiff and Defendant are completely diverse, citizens of different states, and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs. Plaintiff ALLSTATE is an Illinois corporation, domiciled in Northbrook, Illinois. Plaintiff ALLSTATE is therefore a citizen of Illinois. Defendant AEP is an Ohio corporation, domiciled in Columbus, Ohio. Defendant is therefore a citizen of Ohio. Allstate is claiming damages, exclusive of interest and costs, in the amount of \$165,048.84, which include amounts it paid to its insured under a policy of insurance resulting from a fire that occurred at its insured's residence, which is located at 3210 Middlebranch Ave NE, Canton, Ohio on March 25, 2021.

UNDERLYING FACTS

6. Upon information and belief, Smith was asleep in her bed, when she heard a loud bang around 6:45 am and then five more bangs. Another occupant of the house was in the living room and observed a bright flash of light.

7. Upon information and belief, on March 25, 2021, a fire originated from the south side of the Smith Residence.

8. Nick Leone of Churchwell Investigations conducted a preliminary site examination and found multiple burn holes in gutters, downspouts, copper water lines, and ceiling tiles in the basement.

9. The Fire Department on site noted power lines arcing on the Smith residence and against the side of the house. They advised high winds in the morning made suppressing the fire difficult, as there were various little fires and a blowing power line.

10. During a joint site examination, Nate Broman attended for AEP and confirmed an AEP power line fell on the home. The power line was traveling on the south side of the home.

11. Research on the weather indicated there were no lighting strikes in the area. Winds were sustained at 35 mph, with gusts up to 53 mph.

12. At all relevant times, ALLSTATE provided a policy of insurance for Smith, which provided coverage for damage incurred to real and personal property belonging to Smith.

13. Pursuant to its policy of insurance to Smith, ALLSTATE paid to or on behalf of Smith an amount in excess of \$165,048.84 as indemnification and reimbursement for damages suffered by Smith to her personal property due to the aforementioned fire.

14. In consideration of said payments, and in equity, ALLSTATE became a bona fide subrogee of Smith, and is subrogated to all rights, claims, and interests that Smith may have against any person or entity for this occurrence and its resulting damage.

COUNT I
NEGLIGENCE

15. Plaintiff realleges the allegations contained in Paragraphs 1 through 14 above as if set forth herein.

16. At all times relevant, Defendant AEP had a duty to exercise reasonable care in maintaining the power lines its supplies.

17. Notwithstanding said duty, and in breach thereof, Defendant AEP, by and through its employees, agents, subcontractors and representatives, was negligent in one or more of the following acts or omissions:

- a. Carelessly and negligently failed to adequately monitor power lines that came into contact with the Smith residence;
- b. Carelessly and negligently failed to install power lines able to withstand high winds;
- c. Carelessly and negligently failed to maintain power lines in a residential area;
- d. Carelessly and negligently failed to inspect and/or test the power lines;
- e. Carelessly and negligently failed to take proper emergency actions to resolve an open and obvious electrical fire hazard;
- f. Carelessly and negligently failed to comply with the National Electric Safety Code;
- g. Was otherwise careless and negligent.

18. As a direct and proximate result of the conduct of Defendant AEP, Plaintiff incurred property damage to her dwelling.

19. As a direct and proximate result of the conduct of Defendant AEP, Plaintiff ALLSTATE was required to make payments under the policy of insurance it had issued to SMITH in an amount of ONE HUNDRED SIXTY-FIVE THOUSAND FORTY-EIGHT DOLLARS AND EIGHTY-FOUR CENTS (\$165,048.84) thereby becoming a bona fide subrogee herein.

WHEREFORE, PLAINTIFF ALLSTATE VEHICLE & PROPERTY INS CO., as subrogee of Theresa Smith, prays for judgment against the Defendant, AMERICAN ENERGY COMPANY, INC., in the amount of ONE HUNDRED SIXTY-FIVE THOUSAND FORTY-EIGHT DOLLARS AND EIGHTY-FOUR CENTS (\$165,048.84) or such other amount the

Court deems appropriate in the premises plus an award of costs and attorney's fees incurred in presenting this claim.

Respectfully Submitted,

/s/ Leslie E. Wargo
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JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury of the maximum amount of jurors possible

/s/ Leslie E. Wargo
Leslie E. Wargo (0073112)